

REMARKS

In the Final Office Action, the Examiner rejected claims 1-14, 52-65, 103, 106, 109, 112, 115, 118, 123-125, and 127 under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent No. 6,546,005 to Berkley et al. ("Berkley") in view of U.S. Patent No. 6,711,158 to Kahane et al. ("Kahane"), and further in view of U.S. Patent Application Publication No. 2002/0085701 of Parsons et al. ("Parsons"); rejected claims 17-24, 33, 34, 36-39, 68-75, 84, 85, 87-90, 104, 107, 110, 113, 116, 119, 126, and 128 under 35 U.S.C. § 103(a) as being unpatentable over Berkley in view of Kahane, and further in view of U.S. Patent No. 6,564,261 to Gudjonsson et al. ("Gudjonsson"); and rejected claims 25-31, 76-82, 117, and 120-122 under 35 U.S.C. § 103(a) as being unpatentable over Berkley in view of Kahane, and further in view of Gudjonsson and further in view of U.S. Patent No. 6,535,596 to Frey et al. ("Frey").¹

By this Amendment, Applicants propose to amend independent claims 1, 17, 52, 68, 103, 104, 106, 107, 109, 110, 112, and 113. Claims 15, 16, 32, 35, 40-51, 66, 67, 83, 86, 91-102, 105, 108, 111, 114, and 129 were previously canceled without prejudice or disclaimer. Claims 1-14, 17-31, 33, 34, 36-39, 52-65, 68-82, 84, 85, 87-90, 103, 104, 106, 107, 109, 110, 112, 113, and 115-128 are pending, with claims 1, 17, 52, 68, 103, 104, 106, 107, 109, 110, 112, and 113 being independent. Based on the foregoing

¹ As Applicants' remarks with respect to the Examiner's rejections are sufficient to overcome these rejections, Applicants' silence as to assertions by the Examiner in the Final Office Action or certain requirements that may be applicable to the rejections (e.g., whether a reference constitutes prior art, ability to combine references, assertions as to patentability of dependent claims) is not a concession by Applicants that such assertions are accurate or such requirements have been met, and Applicants reserve the right to analyze and dispute such in the future.

amendments and the following remarks, Applicants respectfully request reconsideration and allowance of the pending claims.

I. **The § 103(a) Rejection of Claims 1-14, 52-65, 103, 106, 109, 112, 115, 118, 123-125, and 127 Based on Berkley, Kahane, and Parsons**

Applicants respectfully traverse the § 103(a) rejection of claims 1-14, 52-65, 103, 106, 109, 112, 115, 118, 123-125, and 127 over Berkley in view of Kahane, and further in view of Parsons. A *prima facie* case of obviousness has not been established with respect to claims 1-14, 52-65, 103, 106, 109, 112, 115, 118, 123-125, and 127.

Amended independent claim 1 recites, among other things, that “the preferred device is overridden without a condition when the retrieved data reflects selection of an override mode.” Berkley, Kahane, and Parsons, taken alone or in combination, fail to teach or suggest at least this feature of claim 1.

The Examiner correctly observed that “Berkley fails to teach wherein the preferred device is overridden when the retrieved data reflects selection of an override mode.” Final Office Action at 3. The Examiner, however, attempted to cure this deficiency of Berkley by relying on Kahane. The Examiner asserted that “Kahane et al. discloses a method for the purpose of routing a communication to a preferred device wherein a preferred device is overridden when the retrieved data reflects selection of an override mode (the time limitation in the current policy as the override mode for the preferred device of the default policy.” Final Office Action at 3 (internal citations omitted).

Applicants disagree with the Examiner’s assertions and submit that the time limitation of Kahane does not constitute an override mode. In an effort to advance

prosecution, however, Applicants propose to amend independent claim 1 to recite that “the preferred device is overridden without a condition when the retrieved data reflects selection of an override mode.”

In the system of Kahane, when the current policy includes a time limitation, CAM 112 will return to its default mode operation only after the time for the current policy expires. See Kahane, col. 6, lines 54-59. Thus, even assuming, *arguendo*, that the time limitation of Kahane constitutes an override mode, which Applicants dispute, the device of Kahane is overridden if the condition of the expiration of the current policy is satisfied. Kahane therefore fails to teach or suggest that “the preferred device is overridden without a condition when the retrieved data reflects selection of an override mode,” as recited in amended independent claim 1, and fails to cure the deficiency of Berkley.

Parsons does not teach or suggest that “the preferred device is overridden without a condition when the retrieved data reflects selection of an override mode,” as recited in amended independent claim 1, and the Final Office Action does not dispute otherwise as Parsons is relied upon only for its alleged teachings of other features recited in the claim. Final Office Action at 4. Therefore, and without conceding any assertions with respect to Parsons, Parsons fails to cure the deficiency of Berkley.

In view of the above-noted deficiencies of Berkley, Kahane, and Parsons, the Final Office Action has neither properly determined the scope and content of the prior art nor properly ascertained the differences between the prior art and claim 1. Also in view of those deficiencies, no combination of the applied references can possibly yield claim 1, nor could claim 1 have been predictable from the applied references. Further in

view of those deficiencies, there would have been no motivation for one of ordinary skill in the art to modify the teachings of the references to achieve Applicants' claimed combinations. Thus, the Final Office Action has failed to clearly articulate a reason why claim 1 would have been obvious to one of ordinary skill in the art in view of the prior art. Accordingly, a *prima facie* case of obviousness has not been established with respect to claim 1, and the rejection under 35 U.S.C. § 103(a) should be withdrawn.

Amended independent claims 52, 103, 106, 109, and 112, although of different scope, recite features that are similar to those discussed above with respect to amended independent claim 1. For at least reasons similar to the reasons set forth above with respect to independent claim 1, a *prima facie* case of obviousness has not been established with respect to independent claims 52, 103, 106, 109, and 112, and the rejection under 35 U.S.C. § 103(a) should be withdrawn.

Dependent claims 2-14, 115, 123, and 125 depend from independent claim 1, and dependent claims 53-65, 118, 124, and 127 depend from independent claim 52. Thus, dependent claims 2-14, 53-65, 115, 118, 123-125, and 127 are allowable at least by virtue of their dependence from an allowable independent claim, as well as by reason of reciting additional features not taught nor suggested by the cited references.

Accordingly, Applicants respectfully request the withdrawal of the § 103 rejection of claims 1-14, 52-65, 103, 106, 109, 112, 115, 118, 123-125, and 127 based on Berkley, Kahane, and Parsons.

II. **The § 103(a) Rejection of Claims 17-24, 33, 34, 36-39, 68-75, 84, 85, 87-90, 104, 107, 110, 113, 116, 119, 126, and 128 Based on Berkley, Kahane, and Gudjonsson**

Applicants respectfully traverse the § 103(a) rejection of claims 17-24, 33, 34, 36-39, 68-75, 84, 85, 87-90, 104, 107, 110, 113, 116, 119, 126, and 128 over Berkley in view of Kahane, and further in view of Gudjonsson. A *prima facie* case of obviousness has not been established with respect to claims 17-24, 33, 34, 36-39, 68-75, 84, 85, 87-90, 104, 107, 110, 113, 116, 119, 126, and 128.

Amended independent claim 17 recites, among other things, that “the preferred device is overridden without a condition when the retrieved data reflects selection of an override mode.” As explained above with respect to claim 1, Berkley does not teach or suggest at least this feature of amended independent claim 17, and Kahane fails to cure the deficiency of Berkley.

Gudjonsson does not teach or suggest this feature of amended independent claim 17, and the Final Office Action does not dispute otherwise as Gudjonsson is relied upon only for its alleged teachings of other features recited in the claim. Final Office Action at 8-9. Therefore, and without conceding any assertions with respect to Gudjonsson, Gudjonsson fails to cure the deficiency of Berkley and Kahane.

For at least the above reasons, the Final Office Action has failed to clearly articulate a reason why independent claim 17 would have been obvious to one of ordinary skill in the art in view of the prior art. Accordingly, a *prima facie* case of obviousness has not been established with respect to independent claim 17, and the rejection under 35 U.S.C. § 103(a) should be withdrawn.

Amended independent claims 68, 104, 107, 110, and 113, although of different scope, recite features that are similar to those discussed above with respect to amended independent claim 17. For at least reasons similar to the reasons set forth above with respect to independent claim 1, a *prima facie* case of obviousness has not been established with respect to claims 68, 104, 107, 110, and 113, and the rejection under 35 U.S.C. § 103(a) should be withdrawn.

Dependent claims 18-24, 33, 34, 36-39, 116, and 126 depend from independent claim 17, and dependent claims 69-75, 84, 85, 87-90, 119, and 128 depend from independent claim 68. Thus, dependent claims 18-24, 33, 34, 36-39, 69-75, 84, 85, 87-90, 116, 119, 126, and 128 are allowable at least by virtue of their dependence from an allowable independent claim 1, as well as by reason of reciting additional features not taught nor suggested by the cited references.

Accordingly, Applicants respectfully request the withdrawal of the § 103 rejection of claims 17-24, 33, 34, 36-39, 68-75, 84, 85, 87-90, 104, 107, 110, 113, 116, 119, 126, and 128 based on Berkley, Kahane, and Gudjonsson.

III. The § 103(a) Rejection of Claims 25-31, 76-82, 117, and 120-122 Based on Berkley, Kahane, Gudjonsson, and Frey

Dependent claims 25-31, 117, and 121 depend from independent claim 17, and dependent claims 76-82, 120, and 122 depend from independent claim 68. As explained above with respect to claims 1 and 17, Berkley does not teach or suggest that “the preferred device is overridden when the retrieved data reflects selection of an override mode,” as recited in amended independent claim 17 and similarly in amended

independent claim 68, and neither Kahane nor Gudjonsson cures the deficiency of Berkley.

Frey does not teach or suggest this feature of amended independent claims 17 and 18, and the Final Office Action does not dispute otherwise as Frey is relied upon only for its alleged teachings of other features recited in the claims. Final Office Action at 12. Therefore, and without conceding any assertions with respect to Frey, Frey fails to cure the deficiency of Berkley, Kahane, and Gudjonsson.

For at least the above reasons, the Final Office Action has failed to clearly articulate a reason why claims 25-31, 76-82, 117, and 120-122 would have been obvious to one of ordinary skill in the art in view of the prior art. Accordingly, a *prima facie* case of obviousness has not been established with respect to claims 25-31, 76-82, 117, and 120-122, and the rejection under 35 U.S.C. § 103(a) should be withdrawn.

IV. Conclusion

Applicants respectfully request that this Amendment under 37 C.F.R. § 1.116 be entered by the Examiner, placing claims 1-14, 17-31, 33, 34, 36-39, 52-65, 68-82, 84, 85, 87-90, 103, 104, 106, 107, 109, 110, 112, 113, and 115-128 in condition for allowance. Applicants submit that the proposed amendments of claims 1, 17, 52, 68, 103, 104, 106, 107, 109, 110, 112, and 113 do not raise new issues or necessitate the undertaking of any additional search of the art by the Examiner, since all of the elements and their relationships claimed were either earlier claimed or inherent in the claims as examined. Therefore, this Amendment should allow for immediate action by the Examiner.

Furthermore, Applicants respectfully point out that the final action by the Examiner presented some new arguments as to the application of the art against Applicants' invention. It is respectfully submitted that the entering of the Amendment would allow the Applicants to reply to the final rejections and place the application in condition for allowance.

Finally, Applicants submit that the entry of the amendment would place the application in better form for appeal, should the Examiner dispute the patentability of the pending claims.

In view of the foregoing remarks, Applicants submit that this claimed invention, as amended, is neither anticipated nor rendered obvious in view of the prior art references cited against this application. Applicants therefore request the entry of this Amendment, the Examiner's reconsideration of the application, and the timely allowance of the pending claims.

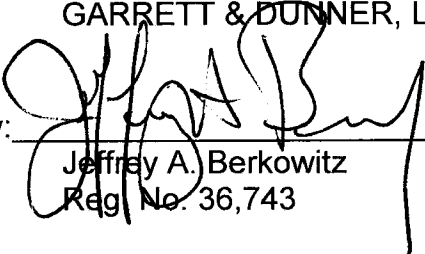
Please grant any extensions of time required to enter this response and charge any additional required fees to Deposit Account No. 06-0916.

Respectfully submitted,

FINNEGAN, HENDERSON, FARABOW,
GARRETT & DUNNER, L.L.P.

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By: _____


Jeffrey A. Berkowitz
Reg. No. 36,743